

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MAINE**

In re:)	
)	
KITTERY POINT PARTNERS, LLC,)	Chapter 11
)	Case No. 17-20316
Debtor.)	
)	
KITTERY POINT PARTNERS, LLC,)	
)	
Plaintiff,)	
)	
vs.)	Adv. Proc. 17-2065
)	
BAYVIEW LOAN SERVICING, LLC and)	
TODD ENRIGHT,)	
)	
Defendants.)	

**APPELLANT KITTEERY POINT PARTNERS, LLC'S (a) DESIGNATION OF
ITEMS TO BE INCLUDED IN THE RECORD ON APPEAL; AND
(b) STATEMENT OF ISSUES ON APPEAL**

Pursuant to Federal Rule of Bankruptcy Procedure 8009, Kittery Point Partners, LLC (“KPP”) hereby designates certain items to be included in the record on appeal and also submits a statement of issues on appeal. This designation and statement of issues relates to KPP’s appeal of the United States Bankruptcy Court for the District of Maine’s (the “Bankruptcy Court”) (a) Final Judgment; and (b) Order Determining Objection to Claim dated December 20, 2019, and entered on the docket in this bankruptcy case (the “Main Case”) on the same date at docket entry 77, as well as Court’s (i) Order Granting Motions to Dismiss and Granting Leave to File Amended Complaint dated March 9, 2018; and (ii) Memorandum of Decision dated March 12,

2018¹ and entered on the docket in the above-captioned adversary proceeding (the “Adversary Proceeding”) at docket entries 42 and 47 respectively.

Designation of Record on Appeal

A. Main Case:

1. Chapter 11 Voluntary Petition Non-Individual [D.E. #1]
2. Amended Statement of Financial Affairs [D.E. #27]
3. Bayview Loan Servicing LLC And M&T Mortgage Corporation’s Motion For An Order Declaring That The Automatic Stay Does Not Apply To The Debtor’s Pre-Petition Lawsuit Or, Alternatively, For Relief From Stay Pursuant To 11 U.S.C. § 362 [D.E. #38]
4. Amended Schedules D and E [D.E. #42]
5. Opposition To Bayview Loan Servicing LLC And M&T Mortgage Corporation’s Motion For An Order Declaring That The Automatic Stay Does Not Apply To The Debtor’s Pre-Petition Lawsuit Or, Alternatively, For Relief From Stay Pursuant To 11 U.S.C. § 362 And Incorporated Memorandum Of Law [D.E. #50]
6. Stipulation Of Facts For Relief From Stay Hearing Pursuant To 11 U.S.C. §362 [D.E. #62]
7. PDF with attached Audio File of hearing held October 30, 2017 [D.E. #66]
8. Order Granting Bayview Loan Servicing LLC and M&T Mortgage Corporation Limited Relief from Stay Pursuant to 11 U.S.C. § 362(d)(1) [D.E. #72]
9. Order Granting Bayview Loan Servicing LLC and M&T Mortgage Corporation Further Limited Relief from Stay Pursuant to 11 U.S.C. § 362(d)(1) [D.E. #106]
10. Debtor’s Objection To Claim Of Bayview Loan Servicing, LLC Pursuant To Federal Rule Of Bankruptcy Procedure 3007(d) [D.E. #111]
11. Bayview Loan Servicing, LLC’s Response To Kittery Point Partners, LLC’s Objection To Claim Of Bayview Loan Servicing, LLC Pursuant To Federal Rule Of Bankruptcy Procedure 3007(d) [D.E. #114]

¹ A prior version of the Memorandum of Decision was entered on the adversary proceeding docket on March 9, 2018 at docket entry 43 but was superseded by the March 12th version. See adversary proceeding docket entry 46.

12. Debtor's Reply To Bayview Loan Servicing, LLC's Response To Debtor's Objection To Claim Of Bayview Loan Servicing, LLC Pursuant To Federal Rule Of Bankruptcy Procedure 3007(d) [D.E. #118]
13. PDF with attached Audio File of hearing held June 14, 2018 [D.E. #120]
14. PDF with attached Audio File of hearing held June 25, 2018 [D.E. #128]
15. Order on Kittery Partners, LLC's Objection to Claim of Bayview Loan Servicing, LLC Pursuant to Federal Rule of Bankruptcy Procedure 3007(d) [D.E. #132]
16. Debtor's Second Amended Plan of Reorganization (Rev.) Dated September 6, 2018 [D.E. #154]
17. Second Amended Disclosure Statement With Respect To Debtor's Second Amended Plan of Reorganization (Rev.) Dated September 6, 2018 [D.E. #155]
18. Order Approving Form Of Disclosure Statement [D.E. #158]
19. Bayview Loan Servicing, LLC's Objection To Confirmation Of Debtor Kittery Point Partners, LLC's Second Amended Plan Of Reorganization (Rev.) Dated September 6, 2018 [D.E. #181]
20. Brief of Appellant Kittery Point Partners, LLC [D.E. #214]
21. Brief Of Appellees Bayview Loan Servicing, LLC And M&T Mortgage Corporation [D.E. #225]
22. Order Setting Date For Trial And Related Deadlines [D.E. #228]
23. Motion In Limine Regarding Burden Of Proof As To Proof Of Claim [D.E. #234]
24. Order Denying Motion In Limine And Request For Expedited Hearing [D.E. #236]
25. Memorandum of Decision of Maine Supreme Judicial Court, Docket #YOR-19-122 [D.E. #241]
26. Debtor's Witness and Exhibit List [D.E. #242]
27. Stipulation of Facts and Exhibits for Trial [D.E. #243]
28. Bayview Loan Servicing, LLC's Witness and Exhibit List [D.E. #244]
29. Motion For Leave To Amend Proof Of Claim With Incorporated Memorandum Of Law [D.E. #245]

30. Objection To Bayview Loan Servicing, LLC's Motion For Leave To Amend Proof Of Claim [D.E. #247]
31. PDF with attached Audio File of hearing held November 19, 2019 [D.E. #249]
32. Order Permitting Bayview To Amend Proof Of Claim [D.E. #253]
33. Affidavit Of Adam R. Prescott In Regard To Invoice To Bayview Loan Servicing, LLC [D.E. #255]
34. Affidavit Of Andrew W. Sparks In Regard To Invoice To Bayview Loan Servicing, LLC [D.E. #256]
35. Order Confirming Debtor's Second Amended Plan Of Reorganization (Rev.) Dated September 6, 2018 As Amended By This Order [D.E. #259]
36. Order Determining Objection To Claim [D.E. #261]

B. Adversary Proceeding:

1. Amended Complaint To Avoid Obligations And Transfers, To Recover Property Of The Estate Pursuant To The Bankruptcy Code, To Recover Money Damages, For Declaratory Relief, And For Other Relief [A.P. D.E. #4]
2. Bayview Loan Servicing, LLC's Motion To Dismiss Or Abstain Regarding The Amended Adversary Complaint Of Kittery Point Partners, LLC Pursuant To Fed. R. Bankr. Proc. 7012, Fed. R. Civ. P. 12, And 28 U.S.C. § 1334(c) [A.P. D.E. #21]
3. Opposition To Bayview Loan Servicing, LLC's Motion To Dismiss Or Abstain Regarding The Amended Adversary Complaint Of Kittery Point Partners, LLC Pursuant To Fed.R.Bankr.P. 7012, Fed.R.Civ.P. 12, And 28 U.S.C. § 1334(c) And Incorporated Memorandum Of Law [A.P. D.E. #32]
4. Bayview Loan Servicing, LLC's Reply In Support Of Motion To Dismiss Or Abstain [A.P. D.E. #35]
5. PDF with attached Audio File of hearing held February 2, 2018 [A.P. D.E. #37]
6. Order Granting Motions To Dismiss And Granting Leave To File Amended Complaint [A.P. D.E. #42]
7. Memorandum of Decision [A.P. D.E. #47]

8. Motion To Alter Or Amend Judgment Pursuant To Rule 59(e) Of The Federal Rules Of Procedure And Rule 9023 Of The Bankruptcy Rules Of Procedure And Incorporated Memorandum Of Law [A.P. D.E. #49]
9. Second Amended Complaint To Avoid Obligations And Transfers, Recover Money Damages, And For Other Relief [A.P. D.E. #51]
10. Bayview Loan Servicing, LLC's Opposition To Kittery Point Partners, LLC's Motion To Alter Or Amend Judgment Pursuant To Rule 59(e) Of The Federal Rules Of Civil Procedure And Rule 9023 Of The Bankruptcy Rules Of Procedure And Incorporated Memorandum Of Law [A.P. D.E. #53]
11. Reply In Support Of Motion To Alter Or Amend Judgment Pursuant To Rule 59(e) Of The Federal Rules Of Procedure And Rule 9023 Of The Federal Rules Of Bankruptcy Procedure And Incorporated Memorandum Of Law [A.P. D.E. #54]
12. PDF with attached Audio File of hearing held April 2, 2018 [A.P. D.E. #55]
13. Order Granting Motion To Alter Or Amend Judgment [A.P. D.E. #59]
14. Motion To Lift Suspension Of Proceedings And For Related Relief [A.P. D.E. #68]
15. Bayview Loan Servicing, LLC's Objection To Debtor Kittery Point Partners, LLC's Motion To Lift Suspension Of Proceedings And For Related Relief [A.P. D.E. #69]
16. PDF with attached Audio File of hearing held August 30, 2018 [A.P. D.E. #71]
17. Order Denying Motion To Lift Suspension Of Proceedings And For Related Relief [A.P. D.E. #72]
18. Final Judgment [A.P. D.E. #77]

Statement of Issues on Appeal

- A. Did the Bankruptcy Court err in dismissing all counts of the Amended Complaint filed by KPP in the Adversary Proceeding?
- B. Did the Bankruptcy Court err in denying KPP's objection to Bayview Loan Servicing LLC's proof of claim (as amended) in the Main Case?

Dated: January 15, 2020

/s/ George J. Marcus

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Attorney for Kittery Point Partners, LLC

CERTIFICATE OF SERVICE

I, George J. Marcus, hereby certify that I am over eighteen years old and caused a true and correct copy of the foregoing document to be served electronically on the parties receiving service in this case through the Court's CM/ECF electronic filing system on January 15, 2020.

/s/ George J. Marcus
George J. Marcus